

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FERNANDO REAL

Plaintiff,

v.

LT. DUNKLE, et al.,

Defendants.

CIVIL ACTION NO. 3:11-2071

(JUDGE CAPUTO)

(MAGISTRATE JUDGE BLEWITT)

ORDER

NOW, this 23rd day of April, 2012, **IT IS HEREBY ORDERED** that:

(A) Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (Doc. 5) is **GRANTED**.

(B) Magistrate Judge Blewitt's Report and Recommendations (Doc. 9) to Plaintiff's Complaint is **REJECTED in part** and **ADOPTED in part** as follows:

- (1) The Recommendations that Plaintiff's claims for compensatory and punitive damages against Defendants in their official capacities be dismissed and that the claim for specific monetary damages be stricken from the Complaint are **ADOPTED**.
- (2) The Recommendation to dismiss Plaintiff's Fourteenth Amendment Due Process claim with prejudice as to all Defendants is **ADOPTED**.
- (3) The Recommendation to dismiss Plaintiff's § 1981, § 1985(3), and § 1986 claims with prejudice as to all Defendants is **ADOPTED**.
- (4) The Recommendation to dismiss Plaintiff's § 1983 conspiracy claim with prejudice as to Defendants McMillan, Burns, Romig, Segedy, Mowrey, Dascani, and Mason is **ADOPTED**.
- (5) The Recommendation to dismiss Defendants Mowrey, Dascani, and Mason from the action with prejudice is **ADOPTED**.
- (6) The Recommendation to dismiss Defendants McMillan, Burns, Romig, and Segedy from the action without prejudice is **ADOPTED**. Plaintiff may file an amended complaint to allege the personal involvement of Defendants McMillan, Burns, Romig, and Segedy as to Plaintiff's First Amendment retaliation and denial

of access to the courts claims.

(7) The Recommendation to allow Plaintiff to proceed on his First Amendment retaliation claim as to Defendants Murphy and Gormley is **ADOPTED**, but the Recommendation to dismiss the First Amendment retaliation claim as to Defendants Dunkle, Meyers, Doe, Hyslack, Malik, and Clark is **REJECTED**. Plaintiff may proceed on his First Amendment retaliation claim against Defendants Murphy, Gormley, Dunkle, Meyers, Doe, Hyslack, Malik, and Clark.

(8) The Recommendation to allow Plaintiff to proceed on his First Amendment denial of access to the courts claim as to Defendants Dunkle, Meyers, Doe, Gormley, Hyslack, Malik, and Clark is **ADOPTED**, but the Recommendation to dismiss the First Amendment denial of access to the courts claim as to Defendant Murphy is **REJECTED**. Plaintiff may proceed on his First Amendment denial of access to the courts claim as to Defendants Murphy, Gormley, Dunkle, Meyers, Doe, Hyslack, Malik, and Clark.

(9) The Recommendation to dismiss Plaintiff's § 1983 conspiracy claim as to Defendants Murphy, Gormley, Dunkle, Meyers, Doe, Hyslack, Malik, and Clark is **REJECTED**. Plaintiff may proceed on his § 1983 conspiracy claim as to Defendants Murphy, Gormley, Dunkle, Meyers, Doe, Hyslack, Malik, and Clark.

(C) This case is **RECOMMITTED** to Magistrate Judge Blewitt for further proceedings.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge